



submitted an amendment to its response on January 27, 1997. A hearing was held before the undersigned hearing officer on January 31, 1997. The record was held open for the submission of a job description which was received on February 11, 1997.

FINDINGS OF FACT

1. Rockingham County employs personnel to carry out the business of the County and thereby is a "public employer" within the meaning of RSA 273-A: 1 X.
2. The State Employees Association of New Hampshire, SEIU Local 1984, has proposed a bargaining unit for employees of the Rockingham County Sheriff's Department to consist of the following positions:

Administrative Assistant (1), Bookkeeper (1), Call Taker (1), Deputy Sheriff I (20), Deputy Sheriff II (13), Deputy Sheriff/Prosecutor (1), Dispatcher (13), Deputy Sheriff II/Network Supervisor/Systems Administrator (1), Radio Technician (1), Exclusions are Sheriff, Chief Deputy Sheriff, Under Sheriff, Office Manager and Chief Dispatcher.

The County raised the following objections to including certain positions in the bargaining unit listed above:

- (a) a community of interest objection pertaining to sixteen (16) Deputy Sheriff I positions,
  - (b) a confidentiality objection to the Deputy Sheriff II/Prosecutor/Administrative Lawyer, and
  - (c) supervisory objections to the Deputy Sheriff II/Administrator of Courthouse Security/Transportation Officer and the Dispatcher II/Network Systems Coordinator positions.
3. The sixteen challenged Deputy Sheriff I positions are employed to work exclusively at the Manchester Airport. These positions are paid under the same wage schedule, receive the same benefits, are evaluated and disciplined as are other Rockingham County employees. They follow many of the same rules and regulations as the remaining Deputy Sheriff I positions. However,

they carry out their duties at the Airport under additional separate rules and regulations. Some conditions of their employment are different because the site of their employment differs. Manchester Airport is many miles away from the Rockingham County Sheriff's Department and has unique rules which apply to no other County positions. These Deputy Sheriffs I were hired specifically for the Manchester Airport assignment to fulfill a contract between the County and the Airport. They receive special training and supervision. Were the contract to be canceled, these positions would not continue.

4. The Deputy Sheriff II/Prosecutor/Administrative Lawyer receives the same pay and benefits received by all other Deputy Sheriffs II. The job description supplied (Joint No. 1) contradicts testimony in only one major respect in that testimony from the incumbent was that he makes no policy decisions and is not consulted regarding policy by the Sheriff and Under Sheriff. This Deputy Sheriff II keeps records of attendance, leave and salary for the Department but makes no decisions on attendance, salary or leaves. This position does some work applying numbers generated by others in the process of preparing the County budget and does research for the sheriffs as they proceed on cases, reviewing such things as issues of jurisdiction and the presence of elements of a claim. He checks statutes, rules and regulations but has never represented the County in a claim relating to a fellow employee. The Sheriff and Under Sheriff set policy and do all the sensitive personnel work which will translate into confidential labor related work should the bargaining unit come into being at Rockingham County.
5. The Deputy Sheriff II/Administrator of Courthouse Security/Transportation Officer does some handling of prisoners and prisoner transports. This position does some supervision of others who also transport prisoners and handle prisoners. In turn, this position is supervised by the Captain and Under Sheriff. This Deputy Sheriff II makes up the schedules and assignments for the other four transport officers but the schedules and assignments are subject to review by the Captain and the Under Sheriff who have final authority. This position performs evaluates the four transport officers and these

evaluations are reviewed for approval by the Under Sheriff. This Deputy Sheriff may recommend discipline but does not have authority to impose discipline.

6. The Dispatcher II/Network Supervisor or Systems Coordinator is in charge of the computers and systems maintained by Rockingham County. This position does not become involved in labor relations or personnel matters.

#### DECISION AND ORDER

RSA 273-A:8 empowers this Board to determine whether a bargaining unit is to be established and, if so, the composition of proposed bargaining unit. The statute sets the standard under which proposed units are to be reviewed. There must exist among the positions to be included in a bargaining unit a sufficient community of interest. "Ultimately, the question is whether there exists a mutuality of interest in working conditions such that it is reasonable for the employees to negotiate jointly." University System v. State of New Hampshire, 117 NH 96, 100 (1977).

The sixteen Deputy Sheriff I positions hired by Rockingham County to work at the Manchester Airport under contract to the Manchester Airport Authority must be excluded from this proposed bargaining unit because they do not share a community of interest with the other positions who work at the Rockingham County Sheriff's Department. The differences in working conditions stem from the geographical location of work site and nature of the work performed for the Manchester Airport Authority.

The Deputy II/Prosecutor/Administrative Lawyer is not consulted regarding personnel or policy matters and there is no reason to anticipate that this will change with the establishment of a bargaining unit. Rather, this position gathers and applies information but not in a context that would constitute, creating, processing or dealing with confidential information under RSA 273-A. This position is not confidential within the meaning of RSA 273-A:1 IX (c). Therefore, there is no reason for excluding this position from the bargaining unit.

The Deputy II/Administrator of Courthouse Security/Transportation Officer is a working supervisor who, because of his duties and responsibilities, is allied with the transportation officers, other Deputies II and additional members of the bargaining unit. This position has not been assigned the exercise of significant supervisory authority which would require the position be

excluded from the bargaining unit for reasons stated in RSA 273-A:8 II.

Similarly, the Dispatcher II/Network Supervisor/Systems Coordinator does not exercise a sufficient degree of supervisory authority to be excludable as a supervisor of personnel. This position's authority rests in the knowledge of technical aspects of computers and not in authority over employees which would compromise the community of interest of bargaining unit members. This position is properly included in this bargaining unit as there is a mutuality of interest in working conditions between this and other bargaining unit positions.

The unit to be certified at the Rockingham County Sheriff's Department shall consist of the following positions:

Bookkeeper (1), Call Taker (1), Deputy Sheriff (4), Deputy Sheriff II (14), Dispatcher (13), Radio Technician (1), Deputy Sheriff II/Prosecutor/Administrative Lawyer (1), Deputy II/Administrator of Courthouse Security/Transportation Coordinator (1), Dispatcher II/Network Supervisor/Systems Coordinator.

The numbers in parentheses are intended only to reflect the numbers of incumbents in the respective positions as of the time of this petition and are not intended to suggest that those numbers may not change over time.

So ordered.

Signed this 25th day of March, 1997.



---

Gail C. Morrison  
Hearing Officer